

REMARKS

This is a full and timely response to the final Office Action mailed May 18, 2004. Claims 32-62 remain pending. Specifically, claims 32-62 have been added, and claims 1 – 31 have been cancelled without prejudice, waiver, or disclaimer. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

I. Allowable Subject Matter

Applicants greatly appreciate the Examiner's statement in the previous Office Action that claims 4, 5, 12, 19, 20, and 28 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

II. Examiner Interview

Applicants appreciate the time the Examiner spent with Applicants' attorney during a series of telephone discussions on June 22, 2004 and June 23, 2004 regarding the outstanding Office Action. Applicants believe that certain important issues were identified during the telephone discussion, and that they are resolved herein. During that conversation, Examiner Negron indicated that it would be potentially beneficial for Applicant to make the amendments reflected in newly-added claims 28 – 53 and the specification. Thus, Applicant respectfully requests that Examiner carefully consider this response and the amendments.

III. Amendments to the Specification

The specification has been amended as suggested by the Examiner in the telephone discussion of June 23, 2004. Specifically, the amendments reflect text taken from Provisional Application No. 60/224,826, filed August 12, 2000, which was entirely incorporated into the present application by reference. Accordingly, Applicants submit that no new matter has been added.

IV. Drawing Objections

The drawings have been objected to under 37 C.F.R. § 1.83(a) for allegedly not showing every feature of the invention specified in the claims. Specifically, the Office Action alleges that “the ‘image-capturing device configured as a pendent and a pin’ (claim 5) must be shown or the feature(s) canceled from the claim(s).” (Office Action, page 2).

In an effort to further prosecution of the application, and to reduce the number of disputed issues, the claimed features of a “pendant” and a “pin” have been canceled from the claims. For the reasons set forth above, no drawing amendments, or new drawings, are believed to be required in the present application. Accordingly, it is respectfully requested that the objection to the drawings be withdrawn.

V. The 35 U.S.C. §112, 1st Paragraph Rejection to Claims 4, 11 – 15, 19, and 28 is Moot; New Claims 35, 42-46, 50, and 59 Comply With 35 U.S.C. §112

Claims 4, 11 – 15, 19, and 28

The Office Action rejects claims 4, 11 – 15, 19, and 28 under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the enablement requirement. Specifically, the Office Action alleges that “the claims recite an image-capturing system capable of monitoring certain conditions of the user without disclosing (in the specification or the drawings) the way in which such conditions are identified.” Further, the Office Action alleges “the specification is silent as to the procedure, algorithms, protocol, etc., etc. [sic] used by the claimed invention to perform the functions recited by the claims.” (Office Action, page 3). In that claims 4, 11 – 15, 19, and 28 have been canceled, the rejection under 35 U.S.C. §112 is moot.

New Claims 35, 42-46, 50, and 59

Applicants respectfully submit that claims 35, 42-46, and 59 (which correspond substantially with canceled claims 4, 11 – 15, 19, and 28) comply with the enablement requirement. Specifically, the amendment to the specification has been made based on the telephone discussions between Applicants’ attorney and the Examiner. The Examiner indicated that amending the detailed description to include particular subject matter which was disclosed in Applicants’ provisional application, which was entirely incorporated by reference, should overcome the §112 rejection to claims 4, 11 – 15, 19, and 28 (which correspond substantially with new claims 35, 42-46, and 59). This subject

matter is reflected in the amendment to the specification. Accordingly, Applicants respectfully submit that new claims 35, 42-46, 50, and 59 comply with 35 U.S.C. §112.

VI. The §103(a) Rejection to Claims 1 – 4, 6 – 19, 21 – 28, 30, and 31 is Moot

The Office Action rejects claims 1 – 4, 6 – 19, 21 – 28, 30, and 31 under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 5,875,257 to *Marrin, et al.* (“*Marrin*”). In that claims 1 – 4, 6 – 19, 21 – 28, 30, and 31 have been canceled, the §103(a) rejection is believed to be moot.

VII. New Claims 32-62 are Patentable Over *Marrin*

The Office Action indicated that claims 5, 20, and 29 would be allowable if rewritten in independent form including all of the limitations of the base claim and any independent claims.

Specifically, the Office Action indicates that “no prior art was found teaching individually, or suggesting in combination, all of the features of applicants’ invention, specifically an image capturing system for controlling an electrical device by detection of the any claimed conditions, *or such system formed into a pin or pendant.*” (Office Action, pgs. 5-6).

Applicants submit that claims 1-31 are patentable over *Marrin* for a number of reasons explained in the Response to First Office Action and discussed in the telephone discussion with the Examiner. However, in an effort to expedite prosecution of the application, Applicants have canceled claims 1-31 and added claims 32 – 62 which comport

substantially with subject matter which the present Office Action has indicated as allowable.

Specifically, new independent claims 32, 47, and 56 and new dependent claims 36, 51, and 56 contain similar limitations recited in previously allowed claims 5, 20, and 29, which Applicants submit are not disclosed, taught, or suggested by *Marrin*. Specifically, instead of “a pin or pendant,” new claims 32, 47, and 56 (and new dependent claims 36, 51, and 56) recite that particular features are formed into “a wearable housing.” Applicants submit that not only does *Marrin* not disclose a similar system formed into a pendant or a pin, *Marrin* does not disclose a “wearable” system at all.

Allowable claim 5 for example, recited that “the light-emitting device, the image-forming device, and the processor are comprised in ***one of a pendant, and a pin.***” New claim 32 includes the feature of “***a wearable housing*** including the light-emitting device and the image-forming device, wherein the housing is portable.” Similarly, dependent claim 36 recites that “***a processor is included in the wearable housing.***” Accordingly, Applicants submit that independent claim 32 and dependent claim 36 are allowable for at least the reason that *Marrin* does not disclose, teach, or suggest these features.

Allowable claim 20 recited that “the steps of emitting, forming, and processing are performed in ***one of a pendant, and a pin.***” New claim 47 recites that “the steps of emitting and forming are performed by devices in ***a wearable housing.***” Similarly, dependent claim 51 recites that “the step of processing is performed by a processor, the ***processor located in the wearable housing.***” Accordingly, Applicants submit that independent claim 47 and dependent claim 51 are allowable for at least the reason that *Marrin* does not disclose, teach, or suggest these features.

Allowable claim 29 recited that “the means for emitting, forming, and processing are comprised *in one of a pin, and a pendant.*” New claim 56 recites that “the means for emitting light and the means for forming one or more images is in *a wearable housing.*” Similarly dependent claim 60 recites that “the means for processing *is in the wearable housing.*” Accordingly, Applicants submit that independent claim 56 and dependent claim 60 are allowable for at least the reason that *Marrin* does not disclose, teach, or suggest these features.

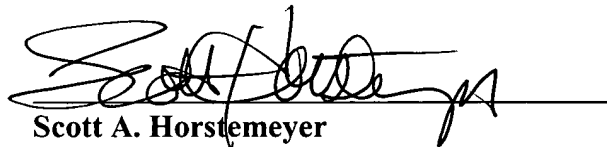
Additionally, Applicants submit that dependent claims 33-35, 37-46, 48-50, 52-55, 57-59, and 61-62 are allowable for at least the reason that they depend from their respective independent claim, which Applicants believe to be allowable.

CONCLUSION

The Applicants respectfully submit that all claims are now in condition for allowance, and request that the Examiner pass this case to issuance. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

No fee is believed to be due in connection with this response. If, however, any fee is deemed to be payable, you are hereby authorized to charge any such fee to Deposit Account No. 20-0778.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Scott A. Horstemeyer', is written over a horizontal line.

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